

1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 UNITED STATES OF AMERICA) Bay City, Michigan
4) March 28, 2022
5) 8:38 a.m.
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8 JUSTIN WILLIAM ZUBE,)
9) Case No. 20-20491
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12 Defendant.)
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7 TRANSCRIPT OF TRIAL - VOLUME 3
8 BEFORE THE HONORABLE THOMAS L. LUDINGTON
9 UNITED STATES DISTRICT JUDGE

10 APPEARANCES:

11 For the Government: WILLIAM J. VAILLIENCOURT
12 ANN NEE
13 United States Attorney
14 Eastern District of Michigan
15 101 First Street
16 Suite 200
17 Bay City, MI 48708

18 For the Defendant: JEFFREY J. RUPP
19 Brisbois, Brisbois & Rupp, PLLC
20 1107 Gratiot Avenue
21 Saginaw, MI 48602
22 (Appearing via Zoom)

23 Court Reporter: Carol M. Harrison, RMR, FCRR
24 1000 Washington Avenue
25 Bay City, MI 48708

26 Proceedings reported by stenotype reporter.
27 Transcript produced by Computer-Aided Transcription.

P R O C E E D I N G S

(At 8:38 a.m., proceedings commenced.)

(Defendant present.)

THE COURT: Good morning. And, counsel, if we could have your introductions, please.

MR. VAILLIENCOURT: Good morning, Your Honor. May it please the Court, William Vaillien court appearing on behalf of the United States.

MS. NEE: Ann Nee also appearing on behalf of the United States.

THE COURT: Good morning. And appearing virtually from home, the defense counsel.

MR. RUPP: Good morning, Your Honor. Jeffrey Rupp appearing on behalf of Mr. Zube, who I assume is in the courtroom.

THE COURT: He is making his way to the courtroom. He should be here shortly.

MR. RUPP: Very well.

THE COURT: How are you feeling today, Mr. Rupp?

MR. RUPP: Again, I'm basically symptom free so I'm doing well.

THE COURT: Good. The record should reflect the fact that it's about 8:35 in the morning, Monday morning. We had a conference call yesterday after we were informed that Mr. Rupp had tested positive for the virus. We have had a discussion

1 concerning the identification of dates. Once we are in the
2 courtroom, we will be consulting with the jury to identify a
3 date to complete the case that we are two days into at this
4 point.

5 We are waiting for Justin Zube, and once he reaches
6 the courtroom, we will entertain the jury and their calendar.

7 My further understanding is we have one juror that is
8 participating by phone. Correct, Ms. Winslow?

9 THE CLERK: Correct, Your Honor. She is in Seat
10 No. 8.

11 THE COURT: And in consultation yesterday we came to
12 the conclusion that we needed essentially one day in which to
13 complete the case, or at least to get it to the jury.
14 Government anticipated about three hours of proofs, and then we
15 had sort of estimated for someplace between an hour and an hour
16 and a half for closing arguments.

17 Am I in the ballpark, counsel?

18 MR. VAILLIENCOURT: Yes. Yes, Your Honor.

19 THE COURT: Okay.

20 MR. RUPP: Yes, Judge.

21 THE COURT: Is that a guitar on the wall, Mr. Rupp?

22 MR. RUPP: No, on the wall is an acoustic electric
23 ukulele. The guitars are on the floor below it.

24 THE COURT: Were you anticipating using the ukulele
25 this morning?

1 MR. RUPP: I'm not anticipating it, but I do like to
2 be prepared.

3 (Defendant present in courtroom.)

4 THE COURT: Good morning, Justin.

5 THE DEFENDANT: Good morning.

6 THE COURT: Mr. Zube, I don't know how much
7 information that you've got. Mr. Rupp obviously is appearing
8 from his home. He had tested positive, and we're in the
9 process of trying to adapt to that. We will be entertaining
10 the jury here to see if we can locate a date in which to
11 complete the case.

12 Any questions from your perspective either for
13 Mr. Rupp or for us?

14 THE DEFENDANT: No. I just wanted to let you guys
15 know that I've not been feeling so great either the last couple
16 days.

17 THE COURT: Terrific. Mr. Rupp has indicated that he
18 has not had symptoms, but he has tested positive.

19 THE DEFENDANT: Yep.

20 THE COURT: I think we are ready for the jury.

21 THE DEFENDANT: I don't think I have it, but I had it
22 in November.

23 THE COURT: In November?

24 THE DEFENDANT: Yeah.

25 THE COURT: Did you have symptoms?

1 THE DEFENDANT: Yeah. I was really sick. I've still
2 had continuing breathing problems, but the last -- since Friday
3 my stomach has been off the charts.

4 THE COURT: Sorry.

5 THE CLERK: Ms. Rebecca, are you still with us?

6 JUROR NO. 8: Yes, I am.

7 THE CLERK: Okay. I have taken you off of mute, and
8 we're just waiting for the other jurors to come in the
9 courtroom.

10 Okay. How are you doing, can you hear me okay?

11 JUROR NO. 8: I can hear you fine. Thank you.

12 THE CLERK: Okay. Thank you. It'll be just another
13 minute.

14 (At 8:45 a.m., balance of jury arrives; Juror No. 8
15 present via phone.)

16 THE COURT: Good morning.

17 THE JURY: Good morning.

18 THE COURT: Please be seated. You will note that
19 Mr. Rupp is joining us on a video platform. He is at home. He
20 tested positive on Friday or Saturday and, as a result, needs
21 to isolate for a period of time.

22 We are also joined by Ms. Rebecca, one of your fellow
23 jurors, who is actually on the telephone right now and
24 participating in that manner and I believe is able to hear
25 everything that's occurring in the courtroom as well.

1 Mr. Drabczyk should have given you a little bit of
2 background hopefully. What we are trying to do at this point
3 is to locate a day in which to complete the presentation of
4 evidence in the case. Government counsel at this point
5 conferred. They anticipate proofs less than three hours. The
6 defendant will then make -- have an opportunity to present
7 proofs but they do not anticipate an extended period of time.
8 The long and the short of it is that we think that we are able
9 to get the case to you with one additional day of time
10 dedicated to the case.

11 We need to give Mr. Rupp enough time in which to
12 isolate and in order to return to the courtroom. So what we're
13 doing at this point is looking for a day that we could have you
14 all back and finish the case.

15 We were tentatively looking at the 11th, which would
16 be the Monday before the Easter holiday. Do you have -- let me
17 indicate to the jury, would anyone have difficulties with
18 Monday the 11th?

19 Wonderful, I see no hands.

20 How about Ms. Rebecca?

21 THE CLERK: Juror in Seat No. 8, can you hear me?

22 JUROR NO. 8: Yes, I can.

23 THE CLERK: Do you have a complication for returning
24 to court on Monday, April 11th?

25 JUROR NO. 8: No, I do not.

1 THE COURT: Good. I'd like to tell you that we've
2 never been in this position before. We have actually, and the
3 last challenge that we had was with a witness, so we are
4 greatly appreciative of your willingness to come back on the
5 11th, so that we can complete the investment that -- of time
6 that we have in the case so far.

7 I would, however, stress that there's a considerable
8 period of time between now and the 11th. I would ask that you
9 not communicate with anyone about the substance of the case, do
10 any research concerning the case, the parties or anything else
11 that would in anyway impact your impartiality as jurors in the
12 case.

13 We appreciate your early trip to Bay City this
14 morning, and counsel have anything else that you think that we
15 should cover with the jury?

16 MR. VAILLIENCOURT: No, Your Honor.

17 THE COURT: Mr. Rupp?

18 MR. RUPP: Judge, I just would like to apologize to
19 everyone for the inconvenience, but as you can imagine, this
20 certainly wasn't my intention.

21 THE COURT: Certainly, and we appreciate that. I
22 appreciate all the effort that everyone has invested in order
23 to accomplish this.

24 The record will reflect that we've covered everything
25 I think we need to. If you could see the jury to the jury

1 room, and we'll see you on April 11th.

2 Please rise for the jury.

3 (At 8:49 a.m., jury leaves.)

4 JUROR NO. 8: Hello?

5 THE CLERK: Ms. Rebecca, I will call you in a little
6 bit, okay?

7 JUROR NO. 8: Okay. Thank you.

8 THE CLERK: Thank you.

9 (Juror No. 8 disconnected from phone.)

10 THE COURT: We are outside the presence of the jury.
11 Counsel, anything additional before we conclude for the day?

12 MR. VAILLIENCOURT: No, Your Honor.

13 MR. RUPP: No, Your Honor. Thank you.

14 THE COURT: Thank you. Record's closed.

15 Thank you, Mr. Zube.

16 (At 8:50 a.m., court recessed.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the proceedings in the above-entitled matter.

Date: 11-14-2022

Carol M. Harrison

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